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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,365	06/29/2001	Frederick Morello	491328-600-006	2229

7590 07/09/2007  
Blaney Harper  
Jones, Day, Reavis & Pogue  
51 Louisiana Ave., N.W.  
Washington, DC 20001

EXAMINER
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HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

MAIL DATE	DELIVERY MODE
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07/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/896,365

Applicant(s)

MORELLO ET AL.

Examiner

Yvonne M. Horton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-12,14,15,17-20 and 28-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-12,14,15,17-20 and 28-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                  |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                      | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                             | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/25/07</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### ***Withdrawal of Allowable Subject Matter***

The indicated allowability of claims 12 and 13 is withdrawn in view of the newly discovered reference(s) to MARTIN. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,3,12,15,17 and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #3,009,509 to MARTIN. Regarding claims 1 and 15, MARTIN discloses the use of panel member (10) including a concave-shaped curved central portion (11) having a pair of straight side walls (13) tangent thereto and extending from the side walls end are a pair of complementary wings (12). Regarding claims 3 and 17, the curved portion (11) is an arc. In further regards to claim 15, the wings (12) of MARTIN are disposed on opposing sides of the curved central portion (11) wherein one wing extends from one side and the other wing extends from the other side such that the first wing is connected to the second wing of an adjacent panel, see figure 1. Regarding claim 28, the side walls (13) extend at an incline from the central portion (11). In reference to claims 29 and 30, the central portion is without a longitudinal stiffening notch.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4-11, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,009,509 to MARTIN. As detailed above, MARTIN discloses the basic claimed device except for the specifics of arc dimensions in degrees and inches. In reference to claims 4-7 and 18, although MARTIN does not disclose specific details of the radius of his arc, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the radius of the arc constitutes the depth of the arc which in turn determines the actual rigidity and strength of the arc itself. Thus, the radius of the arc is an obvious matter of design choice determined by the required or desired amount of rigidity needed for how the panel is intended to be used. For instance, the wider the radius, the arc has less depth and therefor has less rigidity. On the other hand, the smaller the radius, the more the depth of the arc and therefore the more rigid the panel will be. Regarding claims 8-11 and 19, the length of the radius is also determined by the use of the panel and the desired rigidity the panel is required to be. Hence, the length of the radius is also an obvious matter of design choice. The applicant has disclosed a wide range of degrees for arc radiuses and lengths; however, the applicant has not provided any criticality over any one particularly claimed angle or length. Thus, the selection of the angle would have been an obvious matter of design choice depending upon the environment of which the device is intended to be used. Although MARTIN is silent in this regard, the length of

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the arc dictates the radius of the arc, which in turn determines the rigidity of that portion of the panel.

Claims 14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,009,509 to MARTIN in view of either US Patent #6,282,936 to BLAZLEY or US Patent #4,759,159 to BLAZLEY. As detailed above, MARTIN discloses the basic claimed device except for the use of a hook and hem portion. Both BLAZLEY '936 and '159 teach the use of hooks (73,75) or (21,22) and hems (73,75) or (21,22). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the panel of MARTIN with the hooks/hems of BLAZLEY in order to ensure that the panels are secured together thereby preventing buckling and dislodging of adjacent panels.

Claim 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Yvonne M. Horton  
Examiner  
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